

FILE:H
90-01-OR1

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

| | |
|---------------------------------------|--------------------|
| In the Matter of the Hearing to) | |
| Determine Whether or Not to Revoke,) | FINDINGS OF FACT |
| Suspend, or Place on Probation the) | CONCLUSIONS OF LAW |
| Certificate of Registration Number) | AND BOARD ORDER |
| 6095 censure or fine GREGORY D.) | |
| KERBER.) | NO. 90 - 01 - H |

DIRECTED TO: GREGORY D. KERBER
401 E. Hermosa Circle
Tempe, AZ 85282

This matter came before the Arizona State Board of Pharmacy for hearing on the 17th day of January, 1989, pursuant to Complaint and Notice of Hearing No. 90-01-H (hereinafter referred to as "Complaint"). Michael Noel, president, presided, with J. Edward Saba, vice president and members Martha Barron, Daniel Jacob, Linda Tansik and Kathryn L. Kalsman in attendance and participating therein.

The State was represented by the office of the Attorney General, Timothy Agan, Assistant Attorney General. GREGORY D. KERBER was present and was represented by W. Dennis Gorman Jr. as legal counsel.

The Board, after consideration of the evidence and testimony presented, hereby makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

I

Sufficient evidence was presented and sustained in this matter to establish that:

A. GREGORY D. KERBER is the holder of Certificate Number 6095 issued by the Board of Pharmacy pursuant to A.R.S. § 32-1922.

1 B. GREGORY D. KERBER, on the 16th day of November, 1989 was convicted of
2 Fraudulent Insurance Claim in the Superior Court of Arizona in and for the
3 County of Maricopa. Said conviction is a matter of public record contained in
4 Cause Number CR89-03549. Further said conviction is a Class 5 Felony in
5 violation of A.R.S. § 13-701, 702, 801, 804, 901, 902 and 44-1220.

6 CONCLUSIONS OF LAW

7 II

8 A. The Arizona State Board of Pharmacy has jurisdiction in this matter
9 pursuant to A.R.S. § 32-1904 (B) (8).

10 B. A.R.S. § 32-1927 (A) provides that the registration of any pharmacist
11 may be revoked, suspended or a pharmacist may be placed on probation when:

12 2. The registrant has been convicted of a felony.

13 C. A.R.S. § 32-1927 provides that the registration of any pharmacist may be
14 revoked or suspended or the pharmacist may be placed on probation or censured
15 and a civil penalty of not more than five hundred (\$500.00) for each offense
16 may be imposed by the board when:

17 3. The registrant is found by the board to be guilty of unprofessional
18 conduct. For the purposes of this paragraph the following acts constitute
19 unprofessional conduct:

20 d. Fraudently claiming to have performed a professional service.

21 e. Fraudently charging a fee for professional service.

22 ORDER

23 III

24 A. Certificate of Registration Number 6095 issued to GREGORY D. KERBER is
25 suspended for a period of six (6) months beginning November 29, 1989 and
26 ending May 28, 1990.

1 B. Certificate of Registration Number 6095 issued to GREGORY D. KERBER is
2 placed on probation for a period of five (5) years beginning November 29, 1989
3 and ending November 28, 1994.

4 C. Prior to termination of the suspension period, GREGORY D. KERBER shall
5 take and successfully complete the Arizona Jurisprudence Examination (AZPLEX)
6 with a score of ninety percent (90%) or better.

7 D. During the period of suspension and probation, all prescriptions for
8 GREGORY D. KERBER shall be filled in pharmacy other than where the Respondent
9 maintains ownership or is employed.

10 E. GREGORY D. KERBER shall pay all fees and fullfill Continuing Education
11 requirements throughout the time of suspension and probation.

12 F. GREGORY D. KERBER shall obey all federal and state laws and rules
13 governing the practice of Pharmacy.

14 G. Prior to reinstatement of the registration, GREGORY D. KERBER shall
15 appear before the Board or its designee.

16 H. GREGORY D. KERBER shall bear the responsibility for the release of
17 information forms and reports as directed by the Order.

18 I. If GREGORY D. KERBER violates this Order in any way or fails to fullfill
19 the requirements of this Order, the Board, after giving the Respondent notice
20 and the opportunity to be heard, may revoke, suspend or take other disciplinary
21 action against the Respondent.

22 J. GREGORY D. KERBER shall "hold harmless" the Provider of any required
23 reports to the Board of Pharmacy.

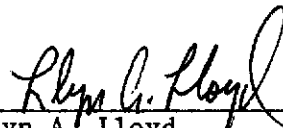
24 GREGORY D. KERBER is hereby notified he has the right to petition this
25 Board for a rehearing within ten (10) days after receipt of this Order pursuant
26 to the provisions of Administrative Rule R4-23-109.

1 DATED this 24th day of January, 1990.

2 THE ARIZONA STATE BOARD OF PHARMACY

3
4 SEAL

5 By


Llyn A. Lloyd
Executive Director

6
7 Copies of the foregoing
8 Findings of Fact, Conclusions
9 of Law and Board Order mailed
10 by certified mail this 24th
11 day of January, 1990 to:

12 GREGORY D. KERBER
13 401 E. Hermosa Circle
14 Tempe, AZ 85282

15 and

16 W. Dennis Gorman Jr.
17 1400 East Southern Ave. Suite 725
18 Tempe, AZ 85282
19 Attorney for GREGORY D. KERBER

20 and by courier mail to:

21 Timothy Agan
22 Assistant Attorney General
23 1275 W. Washington
24 Phoenix, AZ 85007
25 Attorney for the State

26 and

Bridget Harrington
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007
Solicitor General's Office